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**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

Case No.: 3:22-cv-00249-MMD-CLB

CIRILO UCHARIMA ALVARADO, On  
Behalf of Himself and All Others Similarly  
Situated,

Plaintiff,

vs.

WESTERN RANGE ASSOCIATION, a California  
non-profit corporation; ELLISON  
RANCHING COMPANY, a Nevada  
corporation; JOHN ESPIL SHEEP CO., INC., a  
Nevada corporation; F.I.M. CORP., a Nevada  
corporation; THE LITTLE PARIS SHEEP  
COMPANY, LLC, a Nevada limited liability  
company; BORDA LAND & SHEEP COMPANY,  
LLC, a Nevada limited liability company;  
HOLLAND RANCH, LLC, a Nevada limited  
liability company; NEED MORE SHEEP CO., LLC,  
a Nevada limited liability company; and  
FAULKNER LAND AND LIVESTOCK  
COMPANY, INC., an Idaho corporation.

Defendants.

**STIPULATED [PROPOSED]  
ORDER RE: DISCOVERY OF  
ELECTRONICALLY STORED  
INFORMATION FOR STANDARD  
LITIGATION**

1 **1. PURPOSE**

2 This Order will govern production of ESI and Documents (as defined below) by Plaintiff  
3 and Defendants (the “Parties”) as a supplement to the Federal Rules of Civil Procedure and other  
4 applicable orders and rules in the above-captioned proceeding (the “Litigation”). The Parties  
5 reserve all objections under the Federal Rules of Civil Procedure and other applicable authority  
6 concerning matters that are addressed in this Order.

7 Nothing in this Order shall be interpreted to require disclosure of irrelevant information or  
8 relevant information protected by the attorney-client privilege, work-product doctrine, or any other  
9 applicable privilege or immunity; however, any relevant Documents that are subject to privilege  
10 shall be identified in a privilege log as described in section (8) below. The Parties do not waive  
11 any objections to the discoverability, admissibility, or confidentiality of Documents or ESI.  
12 Nothing in this Order shall be interpreted to supersede the provisions of orders governing  
13 confidentiality, privilege, and/or protected information entered by the Court in this Litigation,  
14 unless expressly provided for in such an order.

15 **2. DEFINITIONS**

16 “**Confidentiality Designation**” means the legend affixed to Documents or ESI (or the  
17 accompanying Documents/response) for confidential or highly confidential information as defined  
18 by, and subject to, the terms of any order concerning confidentiality agreed to and/or entered by  
19 the Court in this Litigation.

20 “**Document**” is defined to be synonymous in meaning and equal in scope to the usage of  
21 this term in Rules 26 and 34 of the Federal Rules of Civil Procedure.

22 “**Electronic Document or Data**” means Documents or data existing in electronic form at  
23 the time of collection, including but not limited to e-mail or other means of electronic  
24 communications, word processing files (e.g., Microsoft Word), computer slide presentations (e.g.,  
25 PowerPoint or Keynote slides), spreadsheets (e.g., Excel), and image files (e.g., PDF).

26 “**Electronically stored information**” or “**ESI**,” as used herein, has the same meaning as  
27 in Rules 26 and 34 of the Federal Rules of Civil Procedure and includes Electronic Documents or  
28 Data, and computer-generated information or data, stored in or on any storage media located on

1 computers, file servers, disks, tape, USB drives, or other real or virtualized devices or media in the  
2 Parties' possession, custody or control that is reasonably accessible, including any Cloud or off-  
3 site storage.

4 **"Load file[s]"** means an electronic file containing information identifying a set of  
5 electronic Documents containing metadata, as well as information indicating unitization used to  
6 load that production set into a document review platform.

7 **"Metadata"** means: (i) information embedded in or associated with a native file that  
8 describes the characteristics, origins, usage, and/or validity of the electronic file, which may  
9 include, but is not limited to: author, custodian, subject, to, from, date, and other fields, which may  
10 vary depending on the nature of the file; (ii) information generated automatically by the operation  
11 of a computer or other information technology system when a native file is created, modified,  
12 transmitted, deleted, or otherwise manipulated by a user of such system; (iii) information, such as  
13 Bates numbers, redaction status, privilege status, or confidentiality status created during the course  
14 of processing Documents or ESI for production; and (iv) information collected during the course  
15 of collecting Documents or ESI, such as the name of the media device on which it was stored, or  
16 the custodian or non-custodial data source from which it was collected. Nothing in this Order shall  
17 require any Party to manually populate the value for any metadata field, with the exception of hard  
18 copy Documents laid out in Section 6, Paragraph a.

19 **"Native Format"** or **"Native File"** means the format of ESI in which it was generated  
20 and/or used by the Producing Party in the usual course of its business and in its regularly conducted  
21 activities. For example, the native format of an Excel workbook is an .xls or .xlsx file.

### 22 **3. PRESERVATION**

23 The Parties have discussed their preservation obligations and needs and agree that  
24 preservation of potentially relevant ESI will be reasonable and proportionate. Any Party that  
25 imposes limitations on the materials to be preserved, whether based on date, custodian, document  
26 type, etc., shall identify those limitations to the other Parties to facilitate meet-and-confer. The  
27 Parties retain the right to take disputes concerning their preservation obligations to the Court if  
28 disagreements cannot be resolved through the meet-and-confer process.

1 **4. LIAISON**

2 Each party shall de-duplicate ESI during processing if it uses a processing tool that offers  
3 de-duplication. Duplicates are defined as Documents that have identical digital fingerprints, such  
4 as the Document's MD5 or SHA1 hash value.

5 **5. IDENTIFICATION AND COLLECTION OF ESI**

6 a. Sources, Search Methods, and Timing. The Parties shall meet and confer in good faith  
7 in an effort to agree upon: (a) sources from which Documents and ESI will be collected for review  
8 and production; (b) search methods and terms or other filtering or categorization to be applied; and  
9 (c) timeframes for collection and review of Documents and ESI. These discussions should begin  
10 no later than promptly after service of objections to requests for production and should continue  
11 as necessary to address issues that arise in the course of discovery. If good faith negotiations do  
12 not resolve all ESI questions, the Parties will bring any remaining disputes to the Court for  
13 resolution.

14 b. Technologies. To the extent a Party chooses to search and review using a technology or  
15 methodology other than search terms (including, for instance, predictive coding), that Party shall  
16 disclose its intent to use that technology and the name of the review tool. In the event a Party  
17 chooses to utilize predicted coding or other technology assisted review (TAR), the Parties will  
18 meet and confer regarding precision and recall standards.

19 **6. PRODUCTION FORMAT AND PROCESSING SPECIFICATIONS**

20 a. Hard Copy Documents. Hard copy Documents shall be digitally imaged for production,  
21 with each individual Document separately scanned prior to being produced. The Parties shall  
22 produce all hard copy Documents as they were kept in the ordinary course of business, maintaining  
23 to the greatest extent practicable their organization, folder structure, sequencing, etc. as the  
24 Documents are digitally imaged for production. The Parties will provide searchable OCR ("optical  
25 character recognition") text of any paper or imaged Documents to the extent reasonably practical,  
26 unless the Party reasonably determines that the utility of the OCR is outweighed by the expense.  
27 In that case, the Producing Party will produce the Documents as they are kept in the ordinary  
28 course of business and include in such production an explanation to the Requesting Party why

1 production in OCR format is not feasible. No OCR or explanation for a lack of OCR shall be  
2 required for hand-written Documents, or other Documents to which OCR software does not, in a  
3 reasonably easy manner, convert to OCR format. The Documents should be Bates labeled and  
4 produced with at least the following information: (1) FirstBates; (2) LastBates; and, if the  
5 custodian is different from the Defendants in this case, (3) Custodian. Custodians should be  
6 identified using the convention “last name\_first name”, or, if an entity, the entity name. A  
7 Producing Party shall use a uniform description of a particular custodian across productions. The  
8 custodian information, if required by this Paragraph, shall be provided in an excel spreadsheet with  
9 three columns: (1) FirstBates; (2) LastBates; and (3) Custodian. The Parties shall meet and confer  
10 in the event there is a particularly large production of Documents.

11 b. Native Format of Electronic Documents. The Parties shall produce all spreadsheets,  
12 computer slide presentations, audio files, video files, structured data, databases, and other file types  
13 in the native format in which they were kept in the ordinary course of business, provided, however,  
14 that the Parties will meet and confer regarding appropriate format of production for any Documents  
15 that need specialized software to make accessible. When the native file is produced, the Producing  
16 Party shall preserve the integrity of the electronic Document’s contents, i.e., its original formatting  
17 and metadata.

18 c. Load Files. Where the Requesting Party can establish that the need, as compared to the  
19 relative cost and burden on the Producing Party, justifies the creation of a Load File, then the  
20 Parties will meet and confer regarding the Requesting Party’s specifications. The Parties may also  
21 meet and confer regarding cost shifting of the costs of creating the Load File in order to balance  
22 the relative needs and burdens related to any particular request.

23 d. Confidentiality Designation. To designate Documents or ESI as confidential under a  
24 protective order that the Parties have filed with the court, the producing Party shall follow the  
25 provisions set forth in Paragraph 17 of the Stipulated Protective Order (ECF No. 113). A  
26 Producing Party may also designate a native file as Confidential by inserting the word  
27 “Confidential” in the file name and/or by indicating the Confidentiality status in metadata provided  
28

with an accompanying load file. Designation shall be in a conspicuous, nonobstructive location on the face of a Document, file name of the Document, or the accompanying Documents/response.

e. Bates Numbering. Each page of a produced Document shall have a legible, unique page identifier (“Bates Number”) electronically “burned” onto the image at a location that does not obliterate, conceal, or interfere with any information from the source Document. The Bates Number for each page of each Document will be created to identify the Producing Party. In the case of materials redacted or deemed confidential, a redaction or confidentiality designation may be “burned” onto the Document’s image. The confidentiality designation will be “burned” onto the Document at a location that does not obliterate, conceal, or interfere with any information from the source Document. The Bates designation shall use an alphanumerical prefix that may or may not have special characters and a numerical page reference that shall not include anything but numbers. An acceptable example would be: “Example\_0000001.” Should a Party’s Vendor or Review Platform have other requirements, Parties will meet and confer in good faith.

f. Redactions. Any redactions shall be clearly indicated on the face of the Document, with each redacted portion of the Document stating that it has been redacted and the basis for the redaction, or, alternatively, the Parties may provide a separate log (or included in the Privilege Log).

The Parties agree that they may redact Documents for sensitive personally identifiable information, such as social security numbers or bank account numbers, or a jurisdictionally recognized privilege. Other redactions shall be agreed upon by the Parties.

g. Deviation from Production Specifications. If a particular Document or category of Documents warrant a different format, the Parties will cooperate in good faith to arrange for a mutually acceptable production format.

## **7. PRIVILEGE LOGS**

a. General Requirement. Except as otherwise provided in this Section, a Producing Party shall provide a log or logs of Documents the Producing Party has withheld from Production or produced from disclosure under the attorney-client privilege, the work-product immunity, spousal

1 privilege, or any other applicable privilege. The Producing Party shall provide a Privilege Log  
2 within thirty (30) days of production.

3 b. Materials that Need Not Be Logged. Despite the foregoing, the following materials  
4 presumptively need not be logged:

5 i. Communications on or after the date that the Producing Party first filed or was  
6 served with a complaint in the Litigation exclusively within a law firm, between  
7 a law firm and the Party, or exclusively between or among law firms, serving as  
8 the Party's outside counsel of record, as well as their employees and support staff;

9 ii. Attorney work product created by a Party's outside counsel on or after the date  
10 that the Producing Party first filed or was served with a complaint in the  
11 Litigation.

12 c. Format. The Parties will endeavor to provide a privilege log in Excel format of any  
13 Documents withheld in whole or in part (i.e., redacted) based upon a claim of privilege within  
14 thirty (30) days after production. The Parties further agree to meet and confer regarding the  
15 production of a privilege log prior to any deposition(s) as necessary. For each Document withheld  
16 or redacted, the privilege log shall contain the following information:

17 i. A fixed sequential index/reference number, the sequence of which shall  
18 continue in subsequent logs;

19 ii. Bates number of Documents withheld in part (i.e., redacted);

20 iii. The Document type (e.g., email, Word document, hard copy, etc.) and for any  
21 Documents that include attachments, an indication that the Document has  
22 attachments;

23 iv. If the Document is an email:

24 a. The subject of the e-mail, to the extent it is not privileged;

25 b. The sent date and time of the email (populated with metadata extracted  
26 from the "Date" and "Time" fields);

27 c. The sender (populated with metadata extracted from the "Email From"  
28

field); and

d. The recipients (populated with separate columns with metadata extracted from each of the “Email To,” the “Email CC” and “Email BCC” fields).

v. For loose ESI or hard copy Documents (if known):

a. The author of the Document;

b. The date of the Document;

c. The filename of the Document (if applicable);

d. The custodian of the Document, and if no custodian can be identified the location the Document was found.

vi. A notation identifying any legal personnel (and their affiliation to the extent they are not in-house counsel);

vii. A description of the Document sufficient to allow the Requesting Party to understand the subject matter of the Document and the basis of the claim of privilege or protection; and

viii. The basis of the privilege claimed.

## **9. THIRD-PARTY DOCUMENTS AND ESI**

A Party that issues a non-Party subpoena (the “Issuing Party”) shall include a copy of this Order and the protective order entered in this Litigation with the subpoena and state that the Parties in the Litigation have requested that third parties produce Documents in accordance with the specifications set forth therein.

## **10. MODIFICATION**

This Order may be modified by a Stipulated Order of the Parties or by the Court for good cause shown.

**IT IS SO STIPULATED**, through Counsel of Record.



1 Dated: November 20, 2023

Dated: November 20, 2023

2 **EDELSON PC**

**WOODBURN AND WEDGE**

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23  
24 **[PROPOSED] ORDER**

25 **IT IS SO ORDERED.**

26 Dated this \_\_\_\_ day of \_\_\_\_\_ 2023.

27  
28 \_\_\_\_\_  
U.S. District/Magistrate Judge